

REMARKS

Claims 1 to 59 are pending in the invention and it is alleged in the Restriction Requirement that the claims are directed to ten (10) different inventions. Applicants respectfully submit that the 10 Groups identified by the Examiner are not independent or distinct, such that restriction is proper. An independent invention, as set forth in MPEP 802.01 is defined as "there is no disclosed relationship between the two or more subjects disclosed." Applicants respectfully submit that the claims of the invention are dependent, as they are connected. All the claims of the invention are connected by the common inclusion of the Jaagsiekte retrovirus. The claims are directed to a Jaagsiekte retrovirus itself, the genome and vector encoding a Jaagsiekte retrovirus, method for producing a Jaagsiekte retrovirus, method for treating a subject by administering a Jaagsiekte retrovirus vector genome, method for inducing an immune response using a Jaagsiekte retrovirus, an antibody that binds a Jaagsiekte retrovirus, a method of inhibiting Jaagsiekte retrovirus binding, method of identifying a compound that binds to a Jaagsiekte retrovirus, a method of inhibiting expression of a retrovirus in a cell and a method of driving lung specific expression of a heterologous polynucleotide using a Jaagsiekte retrovirus genome vector. The Examiner states, in the Paper mailed August 26, 2003, that "the asserted special technical feature that links Groups I-X is a Jaagsiekte retrovirus." However, the Examiner states that because the Jaagsiekte retrovirus is allegedly anticipated, that the claims lack unity of invention.

Applicants respectfully submit that regardless of any allegations of anticipation, the claims of the invention are not distinct, as they are linked by the common concept of the Jaagsiekte retrovirus.

Additionally, even if the Groups were independent or distinct, examination of the claims would not present a serious burden on the Examiner. It is respectfully submitted that the subject matter of the claims is limited specifically to a Jaagsiekte retrovirus. Therefore a search of the art would not place a serious burden on the Examiner, as the search could also be so limited.

In re Application of:

Fan et al.

Application No.: 10/030,441

Filed: May 16, 2002

Page 3

PATENT

Attorney Docket No.: UCI1150-1

Accordingly Applicants respectfully request rejoiner of the claims of the invention and examination of claims 1 to 59 together.

CONCLUSION

If the Examiner would like to discuss any of the issues raised in the Response, Applicants' representative can be reached at (858) 677-1456. Enclosed is Check No. _____ in the amount of \$210.00 for the two month extension of time fee. The Commissioner is hereby authorized to charge any other fees that may be associated with this communication, or credit any overpayment to Deposit Account No. 50-1355. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Date: November 24, 2003



Lisa A Haile, Ph.D.

Reg. No. 38,347

Telephone: (858) 677-1456

Facsimile: (858) 677-1465

GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1100
San Diego, California 92121-2133
USPTO Customer Number 28213